

LEGAL, FISCAL AND ECONOMIC REMEDIES

IN WESTERN EUROPE "

1. Introduction.

1.1. We have heard with great interest and admiration of the work done for historic centres in Eastern Europe and we hope to hear many more details of this work at the Council of Europe meeting at Avignon, next year.

1.2. I am here to talk about our experience in one side of this work in Western Europe and to try to give you a factual review of our existing legal and financial means for restoring historic centres.

I cannot very well boast of our work as we agreed at our Council of Europe meeting in Vienna, in 1965, to call attention to "the deplorable state of the majority of monuments in Western Europe caused by the lack of the necessary maintenance and of functions in keeping with their character". But we have had our successes - other speakers will be talking of them - and our difficulties are not unique. They are shared by most countries and our varied solutions should therefore be of interest to you all.

2. Legal Measures.

2.1. Though we have many different political systems and the degree of our respect for the rights or duties of individuals varies, we are all agreed that legislation is required to (i) prevent the thoughtless destruction of our cultural monuments and (ii) allow (in principle at least) the intervention of the state, or local authority, to ensure their maintenance and repair.

2.2. Listing of such monuments is the first essential. This has been carried out in all countries in Western Europe.

In most it is coupled with a system by which the owners of the buildings must give notice of their intention to demolish or alter them, so that the relevant authorities can consider preventing the demolition or alteration, or making an outright purchase of the building, or some compromise.

the demolition or alteration, or making an outright purchase of the building, or some compromise.

The lists vary considerably in their size and their force in law. In France there are about 30.000 buildings listed. In the United Kingdom, the figure is over 100.000. In some countries, the listing varies sharply from one region to the next, as in Western Germany, where the Land of Nordrhein-Westfalen has listed over 15.000 and some other Laender have hardly begun. In fact, of all the countries in Western Europe, Denmark is the only one which has expressed itself satisfied that its listing is approximately complete.

2.3. While this listing usually prevents the demolition of historic buildings without notice, it rarely ensures their survival in good repair. In France and in Norway and Sweden, regular maintenance is required by law of all listed buildings, but it cannot be enforced in the United Kingdom or many other countries such as Switzerland. In the United Kingdom, if we wish to ensure maintenance we have to acquire the building. Some form of compulsion to maintain a listed building would now seem to be universally desirable.

2.4. In France and Portugal the setting of individual listed buildings is protected automatically by the listing procedure. France also has special and complex legislation for the protection of rural and urban sites (under its law of 1930). Somewhat simpler, but still general, provision for the protection of sites is found in the Netherlands and in Spain (under the law of 1933 and the town planning order of 1956) while in Western Germany, Italy and Sweden there are special laws for the protection of individual urban sites; the most important are those for the protection of Venice.

In other countries, particularly those of Northern Europe such as Denmark and the United Kingdom, more reliance is put on the wide use of planning powers.

Both methods can be effective but, if only the protection of a site or the setting of a building is required, there is much to be said for the use of the simpler provisions of, for example, English town planning law rather than the complex procedures of the older French law on sites.

2.5. Positive measures for rehabilitation.

All countries now have powers to acquire, by compulsion if necessary, buildings or whole areas of towns, in order to ensure the making of roads or the improvement of housing conditions. Good use can sometimes be made of these powers in historic centres. Most have powers to acquire sites of archaeological and historic interest

and many have given their central or local governments power to acquire urban sites or old town centres. In most cases, however, the powers are very restricted like those for archaeological sites in Greece and Italy or are of only local application, like the powers for the restoration of Santiago de Compostela, in Northern Spain. Or again, they may have been provided without the financial help required. As an instance, Sweden has recently given its local authorities power to acquire old streets or historic quarters in order to preserve them. Outside Stockholm, few are likely to be sufficiently wealthy to do this without state help. Nevertheless, a great deal has been done in countries with little direct legislative aid, but with generous government financial help, as in parts of Western Germany, particularly those where the Laender are keen on this work.

But the administrative and financial complexity involved in using the combined, but unrelated, powers of public health, housing, highway and historic building legislation for restoring historic towns has been too much for most countries. Nearly all are, therefore, studying the complete system of French legislation and are considering how they can apply its provisions and intentions in their own special circumstances.

2.6. The "Malraux law".

The French law of 4 August 1962 deserves special mention, not only because it completes the French system of protecting historic and artistic buildings and sites, but also because it has provided Western Europe with its first practical experience of the full co-operation of town planning, housing and historic monument organization in the rehabilitation of whole historic towns. It is also the only example of Western European legislation which embodies the three requirements of principle set out by Mr. Sorlin in his introductory report to this Conference.

Briefly, this young act provides the legal means for the comprehensive restoration of every "urban site" of historic interest in France. It makes it possible, it does not make it easy or inexpensive. The procedure is as follows:

(i) a "protected sector" is designated jointly by the Minister of Cultural Affairs (responsible for the protection of the cultural inheritance) and the Minister of Construction (responsible for building and town planning), provided that the local commune or municipal council agrees. There is provision for the designation to be done by Order of the Council of State if the commune is opposed, but the Ministers have decided that they must have the willing co-

operation of the communes and will not proceed without it. Mr. Sorlin, acting for the Minister of Cultural Affairs, has in fact been successful that all his proposed designations so far have received the support of the local councils concerned.

(ii) The area to be restored is, of course, specified when it is designated but the full programme of restoration need not be completed for another two years. In the intervening period any works on buildings in the area is strictly controlled under the supervision of the Minister's architects.

(iii) The restoration scheme is prepared by an architect appointed jointly by the two Ministers. He prepares the plan in detail and presents it to all the relevant authorities within the two-year period. He also advises on the work of restoration and alteration as it is carried out.

(iv) The works themselves can be carried out by individual owners acting independently (though on the advice of the Ministry architects) or by the Municipal Council or, as is most usual, by a special society of mixed economy on which the municipal councils and other bodies and individuals are represented and have financial shares.

These last are given powers to acquire properties which need to be demolished, restored or rebuilt. They usually make agreements to act for private owners during the duration of the works (and can evict unco-operative owners) so that the works can be carried out more comprehensively. When completed the restored buildings are sold at cost (previous owners being given option to re-buy) or let to new tenants.

The new price or rent now reflects the increased value given to the building by its restoration and internal improvement and this may be one which the former owners or tenants are unwilling to pay. Tenants dispossessed in these schemes have a claim on other municipal housing and may not wish to return. Generally therefore the restored areas will tend to be occupied by slightly more prosperous persons and the uses to be more professional in character. This may be better for the delicate and valuable buildings but in any large scheme may lead to social problems.

The total financial assistance given to private owners or the development agencies for carrying out the schemes can amount to 80 % of the cost of the works involved. 20 % of this is a direct subsidy from the State. 60 % is in the form of long-term loans at low rates of interest.

The technical work of restoration and improvement in these schemes falls within the sphere of later speakers at this conference. I only wish to add that the two main principles adopted for the choice of these special areas are:

(1) the area must have architectural unity or homogeneity and (2) when restored it must be capable of good economic use (and not left as a museum-piece, unneed). The latter is a good economic principle but it means that work on some of the poorer small towns, where it may be most urgently required to prevent decay, has to be deferred.

2.7. To sum up, on the legal remedies: in the field of negative protection most countries in Western Europe feel they have sufficient legal provision. But it is still felt to be insufficient in Austria and Italy and to be deficient to some degree in West Germany, Switzerland and the United Kingdom.

In the field of positive preservation most countries are studying the application of the special French law of 1962 and trying to adapt its provisions or principles (sometimes successfully) to their own circumstances. (Belgium and Italy have in fact already prepared similar laws in draft form).

2.8. But of course no law is of much value if it does not have public understanding and respect. Nor is it of much value without finance to carry out its positive provisions. Attitudes in Western Europe vary widely and one expert said recently that we wanted less law and more money. There is a great deal of truth in this.

3. Fiscal Remedies.

3.1. It is difficult to be particular and probably useless to generalise on this subject. At the same time, it is probably fair to say that almost every government in Western Europe contributes to the protection and preservation of historic buildings, whether in public or private ownership, both by direct grants and by hidden subsidies in the form of tax concessions. Contributions to private owners are naturally not often generous.

3.2. Income tax rebates are granted in Belgium, Denmark, France and Norway. Capital tax allowances are given in the Netherlands and exemption from inheritance duties in Italy (in respect of the "Ville Venete"), the Netherlands and the United Kingdom (in respect of properties bequeathed to the, private but charitable, "National Trust").

3.3. Low interest loans are granted in France, in respect of historic centres designated (as described above) under the 1962 law,

and in Greece and Italy for the restoration of other historic buildings.

3.4. Outright grants are given in Belgium (up to 60 %, from the State, 20 % from the province and 10 % from the commune, for classified buildings), in France (up to 50 % for the "classified" and up to 40 % for the other listed buildings) and in the Netherlands (up to 60 % from the state and up to 15 % from the local government). Large individual grants based solely on need are made by the West German Government and by some of its Laender, by the Spanish Government and in the United Kingdom. Rather smaller grants are made in most Scandinavian countries; this seems to be a reflection of the fact that the larger buildings there are already in public ownership or are not such a burden to their owners as in many other countries.

3.5. Compensation for any loss of value due to listing is not common, but any such loss is usually recognized by lower valuation for tax purposes.

3.6. Many countries complain of the difficulties facing those trying to retain historic buildings caused by the rapid rise in the value or price of urban land. This is a big subject and deserves special study. I can only say here that it does not seem to be so acute in those countries with well-established and comprehensive planning systems.

4. Economic remedies.

4.1. It is rare for historic monuments or other cultural institutions to be self-supporting solely from the fees paid by visitors. In the United Kingdom there is only one, the great stone monument of Stonehenge where maintenance costs are very low and in this case, pure economist would be very scornful of the small return earned in relation to the capital value employed!

4.2. Generally the cost of maintaining and restoring historic buildings can only be met by outside help in the form of subsidies or gifts, or by finding a new user who can pay a fair rent or otherwise pay for its cost. Most of the important buildings in historic centres can only be kept by a combination of both sources of income.

4.3. No governments in Western Europe pretend that their historical monuments can be kept without financial sacrifices and their questions are directed to finding out how low the costs can be kept. At the same time they now realize that (i) they have a duty to make sure that their inhabitants are decently housed and well-educated (which involves the expenditure of public money) and (ii) cultural assets are also tourist assets and bring indirect financial rewards.

4.4. In the restoration of historic towns, therefore, when allowance has been made for the use of housing funds, the improvement of living conditions, the increased rents obtainable for much of the improved property, the new life in the town and the increased cultural and tourist assets provided, a fair assessment may well show that the whole exercise is not only less costly (in purely financial terms) than the normal procedure which involves slow decay and destruction followed by new building on fresh land, but (on a wider balance sheet) even profitable.

4.5. Increased leisure and increased personal incomes have led to a rapid rise in the tourist industry of Western Europe in the last twenty years. It has brought a lot of money to historic towns and monuments. Some of this has been well used, for instance by the Spanish Government in the institution of the "paradores" which we have all seen and enjoyed.

But it has brought its problems too. Every country now complains of the demands made by motor traffic on its old towns. Many are also concerned at the wear and tear caused to their buildings by the increased number of visitors.

4.6. The tourist industry could, I think, contribute more to help historic towns and buildings which are, of course, one of its chief assets. In this connection it is instructive to compare the amount of the contributions made from central sources to the maintenance of historic towns and buildings in the various countries of Western Europe, with the huge income which many obtain from their foreign visitors. France, not unexpectedly, has the best record in this respect and there the ratio is about 2,5 to 100. That of the Netherlands, Spain and the United Kingdom is about 1 to 100. In Italy, which has the most lucrative tourist industry in the world and must be the most dependant for it on its historical monuments, the ratio is less than one half.

I do not expect this indirect plea to the tourist industry, to contribute more, to be well received by that industry. It has its own difficulties. But I feel that it could well make a bigger and very sensible investment in one of its greatest assets and that some of its difficulties, such as those due to cut-throat competition, might be overcome by international agreement.

4.7. I have not referred to the diversion of resources from other needs to our own need. We all know of items of expenditure in our Governments' budgets which we should like to cut if we could only divert the resources to our own work. For myself I realize too well that to divert expenditure to say the burial of one kilometer of electricity line in order to save a site or view from disfigurement may prevent the electrification of five farms.

Increase in our real wealth is the only ultimate answer but even this brings special problems in Western Europe. Demands for increased production mean more concrete, more roads and more electricity. In many crowded parts of the west such demands cannot be met without damaging some part of our artistic heritage, urban or rural.

I am therefore glad to find such wide agreement both throughout ICOMOS and Western Europe generally, that regional planning, on a very wide scale, is desirable to cope with such difficulties. We, in the west, will be discussing this special subject at the next Council of Europe conference.

Bruce WATKIN